

REMARKS

The Office Action mailed May 3, 2007 considered claims 1-21, 23-32, 34, and 37-42. Claims 1-21, 23-32, 34, and 37-42 were rejected under 35 U.S.C. 102(e) as being anticipated by Goode (US 6,718,552) hereinafter *Goode* in view of Herz et al. (US 5,758,257) hereinafter *Herz* and Knee et al. (US 2002/0095676) hereinafter *Knee*.¹

By this amendment claims 1, 18, 24, 27 and 31 have been amended.² Claims 1-21, 23-32, 34, and 37-42 are pending, of which claims 1, 18, 24, 27 and 31 are the only independent claims at issue.

The present invention is generally directed to optimizing the use of a fixed bandwidth medium by dynamically restructuring the broadcasting of the channels based on feedback from home entertainment systems. For example, claim 1 defines, upon the occurrence of an event at a first home entertainment system, initiating usage tracking for a selected type of viewable moving image data usage for viewable moving image data of a selected channel, the selected type of viewable moving image data usage being selected from among a plurality of different types of viewable moving image data usage that can be tracked each time one of the plurality of different types of viewable moving image data usage are utilized at the first home entertainment system.

Next, claim 1 defines, in response to the event, tracking a utilization of the selected type of viewable moving image data usage, from among the plurality of different types of viewable moving image data usage, for the moving image data at the first home entertainment system by generating user behavior information to indicate that the selected type of viewable moving image data usage is utilized. Next, claim 1 defines coupling the event with the generated user behavior information for the first home entertainment system. Next, claim 1 defines combining the event and the generated user behavior information from the first home entertainment system with events and corresponding generated user behavior information from other home entertainment systems, the other home entertainment systems also utilizing a type of viewable moving image data usage selected from among the plurality of different types of viewable moving image data

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the amendments to the claims are found throughout the specification and previously presented claims, including but not limited to page 15, line 22 – page 16, line 3, page 17, lines 16-21, and page 20, lines 7-20 and cancelled original claims 22, 33, and 35.

usage for the selected channel, wherein the other home entertainment centers also track each time one of the plurality of different types of viewable moving image data usage is utilized in response to a corresponding event.

Next, claim 1 defines dynamically restructuring the broadcast of at least the selected channel, by at least restructuring the viewable moving image data of the selected channel, and without having to change allocated bandwidth to said selected channel, based on the different types of viewable moving image data usage indicated in the combined events and generated user behavior information so as to optimize the use of the fixed bandwidth, the restructuring increasing the quality of the broadcast by reassigning the channel from a first transponder of a satellite television system to a second transponder of the satellite television system, the second transponder having a greater detected amount of available bandwidth, in response to the tracked utilization and generated user behavior such that available bandwidth on the second transponder is allocated to the channel with a larger perceived user participation.

Independent method claim 18 and its computer program product counterpart (e.g., claim 27) and method claims 24 and 31 claim the method in terms similar to those of claim 1, except that the steps recited in claim 1 have been replaced by specific acts.

Applicants respectfully submit that the cited art of record does not anticipate or otherwise render the amended claims unpatentable for at least the reason that the cited art does not disclose, suggest, or enable each and every element of these claims.

Goode is directed to a network bandwidth optimization system. The *Goode* system allocates channels within the broadest spectrum to video-programming having high viewership characteristics (Col. 3, lls. 6-9). Remaining video-programming is then allocated to the remaining channels and is transmitted only upon demand by customers (Col. 3, lls. 10-12). Thus, channels characterized by high viewership statistics are semi-static, while channels characterized by lower viewership statistics are dynamically allocated on-demand channels or narrow cast channels (Col. 3, l. 21 – Col. 4, l. 50). With variation in viewership over time, programming can change between different portions of channels or can cease. (Col. 4, lls. 12-50). Session Control Managers (SCM) can collect information from subscriber stations regarding frequency of channel usage and favorite channel selections (Col. 5, lls. 36-39). Collected information is made available to a broadcast interconnect, which uses the information to manage broadcast and narrowcast channels (Col. 5, lls. 39-42).

Horton teaches a method and system designed to optimize the transmission method for each user of a cable television network system by varying the transfer rate and corresponding sensitivity to noise (Col. 2, lls. 43-50). *Horton* also teaches using various types of modulation including amplitude, frequency and phase change modulation. Furthermore, *Horton* describes maximizing system throughput by avoiding data collisions and individually adjusting transmission methods in the up or down directions without affecting other users (Col. 2, lls. 18-30).

None of the cited art, however, teaches or suggests dynamically restructuring the broadcast of at least the selected channel by at least restructuring the viewable moving image data of the selected channel, without having to change allocated bandwidth to said selected channel. The dynamic restructuring is based on the different types of viewable moving image data usage indicated in the combined events and generated user behavior information. In order to optimize the use of the fixed bandwidth, the dynamic restructuring increases the quality of the broadcast by reassigning the channel from a first transponder of a satellite television system to a second transponder of the satellite television system, where the second transponder has a greater detected amount of available bandwidth. The channel is reassigned in response to the tracked utilization and generated user behavior such that available bandwidth on the second transponder is allocated to the channel with a larger perceived user participation, as recited in claim 1. At least for this reason, claim 1 patentably defines over the art of record. At least for this reason, claims 18, 24, 27 and 31 also patentably define over the art of record. Since each of the dependent claims depend from one of claims 1, 18, 24, 27 and 31, each of the dependent claims also patentably define over the art of record for at least either of the same reasons.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner

provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at 801-533-9800.

Dated this 3rd day of August, 2007.

Respectfully submitted,

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